

ARMY

PROCUREMENT POLICY ALERT BULLETIN

NO. 97-006

April 9, 1997

The enclosed documents are forwarded for your information and any necessary implementation in advance of formal publication of a Federal Acquisition Circular (FAC), or Defense Acquisition Circular (DAC). There will be no Department of the Army-level supplementation or implementing instructions.

ENCLOSURES:

1. USD(A&T) Memorandum, Subject: Preference for Environmental Protection Agency (EPA) Guideline Items, June 3, 1996.
2. USD(A&T) Memorandum, Subject: Use of ReRefined Administrative Service Motor Oil (Principally for Light-Duty, Gasoline Engines), 26 November 1996.
3. DPP Memorandum, Subject: California and Arizona Legislative Initiatives on Medical Use of Controlled Substances, Jan 30, 1997.
4. DPP Memorandum, Subject: Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era, January 31, 1997
5. DPP Memorandum, Subject: Central Contractor Registration, February 10, 1997.
6. Secretary of Defense Memorandum, Subject: Compliance With Anti-Discrimination Regulations, 28 Feb 1997.
7. White House Memorandum, Subject: Prohibition on Federal

Funding for Cloning of Human Beings, March 4, 1997.

8. DPP Memorandum, Subject: Performance Evaluation of Contracting Officers, March 20, 1997.
9. DPP Memorandum, Subject: Class Deviation--Value Engineering Change Proposals, DAR Tracking Number 97-00001, April 10, 1997.

This bulletin is issued by the Office of the Deputy Assistant Secretary of the Army (Procurement). Comments or questions should be referred to the Procurement and Industrial Base Policy Team, SARD-PP, Room 2E661, 103 Army Pentagon, Washington, DC 20310-0103.

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Bulletin 97-006 consists of 23 pages.

Release Approved By: _____

THE UNDER SECRETARY OF DEFENSE

3010 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-3010

JUN 3 1996

ACQUISITION AND
TECHNOLOGY

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARY OF DEFENSE (COMPTROLLER)
UNDER SECRETARY OF DEFENSE (POLICY)
DIRECTOR, DEFENSE RESEARCH AND
ENGINEERING
ASSISTANT SECRETARIES OF DEFENSE
GENERAL COUNSEL OF THE DEPARTMENT OF
DEFENSE
INSPECTOR GENERAL OF THE DEPARTMENT OF
DEFENSE
DIRECTOR, OPERATIONAL TEST AND EVALUATION
ASSISTANTS TO THE SECRETARY OF DEFENSE
DIRECTOR, ADMINISTRATION AND MANAGEMENT
DIRECTORS OF THE DEFENSE AGENCIES

SUBJECT: Preference for Environmental Protection Agency
(EPA) Guideline Items

Executive Order 12873 and Section 6002 of the Resource Conservation and Recovery Act (42 USC 6962) require Federal agencies to establish preference programs for all designated EPA guideline items purchased. Under Secretary of Defense (Acquisition & Technology) memorandum, "Preference for Environmental Protection Agency (EPA) Guideline Items," dated August 25, 1994, established a DoD preference program for the first five EPA guideline items, and established a policy that requires 100 percent of DoD purchases of designated items meet or exceed the EPA guideline standards. The only exception to the preference for the purchase of guideline items requires a written justification that cites at least one of the following conditions:

- the product is not available competitively within a reasonable time frame;

- the product does not meet appropriate performance standards; or
- the product is only available at an unreasonable price.

On May 1, 1995, EPA designated an additional nineteen guideline items (attached). Executive Order 12873 requires that federal agencies revise their preference programs to include newly designated items within one year of their designation by EPA. Accordingly, effective the date of this memorandum, DoD's preference program is revised to include the additional nineteen EPA guideline items.

The Department of Defense continues to strongly support the use of quality products made with recycled content. Our support of quality products made with recycled materials will demonstrate a commitment to creating new markets for environmentally preferable products, and help achieve DoD's environmental security goals. Please communicate this information on the additional EPA guideline items to both your requirements generating and your procuring activities.

//s//

R. Noel Longuemare

Attachment

Categories

Vehicular Products

Construction Products

Transportation Products

Park and Recreation Products

Landscaping Products

Non-paper Office Products

Paper and Paper Products

*Consolidated from previously issues guidelines

Attachment Designated Items

Engine Coolants
*Retread tires
*Re-refined lubricating oil

Structural Fiberboard
Laminated Paperboard
Carpet
Floor Tiles
Patio Blocks
Cement and Concrete
Containing Granulated Blast
Furnace Slag
*Cement containing fly ash
*Building insulation products

Traffic Cones
Traffic Barricades

Playground Surfaces
Running Tracks

Hydraulic Mulch
Yard Trimmings Compost

Office Recycling Containers
Office Waste Receptacles
Plastic Desktop Accessories
Toner Cartridges
Binders
Plastic Trash Bags

*Paper and paper products

Additional information on the designated items is contained in EPA's Environmental Fact Sheet, "EPA Issues Comprehensive Procurement Guideline." April, 1995, EPA530-F-95-010, or by calling EPA's RCRA Hotline at 1-800-424-9346.

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON DC 20301-3000

ACQUISITION AND
TECHNOLOGY

26 NOV 1996

MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY
(INSTALLATIONS, LOGISTICS & ENVIRONMENT)
ASSISTANT SECRETARY OF THE ARMY
(RESEARCH, DEVELOPMENT & ACQUISITION)
ASSISTANT SECRETARY OF THE NAVY
(INSTALLATIONS & ENVIRONMENT)
ASSISTANT SECRETARY OF THE NAVY
(RESEARCH, DEVELOPMENT & ACQUISITION)
ASSISTANT SECRETARY OF THE AIR FORCE
(MANPOWER, RESERVE AFFAIRS, INSTALLATIONS
& ENVIRONMENT)
ASSISTANT SECRETARY OF THE AIR FORCE
(ACQUISITION)
DIRECTORS OF THE DEFENSE AGENCIES

SUBJECT: Use of Re-Refined Administrative Service Motor Oil
(Principally for Light-Duty, Gasoline Engines)

Section 6002 of the Resource Conservation and Recovery Act (RCRA) and Executive Order 12873, "Federal Acquisition, Recycling, and Waste Prevention," require federal agencies to purchase items designated by the Environmental Protection Agency (EPA) that are or can be produced using recovered materials. The Under Secretary of Defense (Acquisition & Technology), in a memorandum dated August 25, 1994, established DoD policy, applicable to requirements generating and procuring activities, that requires purchase of recovered content items designated by the EPA whenever they meet performance requirements, are reasonably priced, and are competitively available within a reasonable period of time.

This memorandum provides specific requirements for the use and purchase of rerefined 10W30 administrative service motor oil (principally for light-duty, gasoline engines). Re-refined motor oil is one of the items currently designated by the EPA. We are pleased to announce that the Defense Logistics Agency (DLA) recently awarded a contract for re-refined 10W30 administrative service motor oil. The oil is price competitive with virgin motor oil, and meets American Petroleum Institute

Performance Standard SH (1994 Gasoline Engine Warranty Maintenance Service) and the American Automobile Manufacturers Association requirements for use in gasoline engine service.

Military Department and Defense Agencies having administrative fleets shall purchase re-refined motor oil from the DLA contract for all their 10W30 administrative service motor oil requirements, unless one of the exceptions (performance, price, timely availability) mentioned in the USD(A&T) policy memorandum applies. DLA shall fill orders for 10W30 administrative service motor oil from the re-refined motor oil contract, unless the order is accompanied by a written approval and determination explaining why re-refined motor oil cannot be used. In the event re-refined oil stocks are exhausted, DLA will fill re-refined oil requisitions with virgin oil.

The Department's support of quality products made with recycled materials will demonstrate its commitment to creating new markets for environmentally preferable products, and help achieve DoD's environmental security goals. We request that you disseminate this memorandum to your requirements generating activities, procurement activities, and logistics and environmental offices. Further details concerning DLA's re-refined motor oil contract can be obtained from Ms. Robin Champ of Defense Supply Center Richmond at (800) 352-2852.

//s//

Sherri W. Goodman
Deputy Under Secretary of Defense
(Environmental Security)

//s//

John Phillips
Deputy Under Secretary of Defense
(Logistics)

OFFICE OF THE UNDER SECRETARY OF DEFENSE

**3000 DEFENSE PENTAGON
WASHINGTON DC 20301-3000**

ACQUISITION AND
TECHNOLOGY

Jan 30, 1997

DP/CPA

MEMORANDUM FOR DISTRIBUTION

SUBJECT: California and Arizona Legislative Initiatives on
Medical Use of Controlled Substances

On January 13, 1997, the Secretary of Defense issued a memorandum setting forth the Department's policies concerning the California and Arizona initiatives authorizing physicians, under certain circumstances, to prescribe controlled substances. He stated that all policies concerning DoD civilian contractors remain in full force and effect, and that DoD remains committed to a Drug Free Workplace.

In order to ensure that our contractors fully understand our position on this matter, contracting and grant officers shall remind contractors and grantees (a) of their responsibilities under the Drug Free Workplace Act and the DoD Drug Free Workforce Rule (if applicable); (b) that any use of marijuana or other Schedule I controlled substance remains a prohibited activity; and (c) that failure to comply with these provisions may result in termination of the contract or grant as well as suspension or debarment from future federal government contracts and grants.

//s//

Eleanor R. Spector
Director, Defense Procurement

Attachment

DISTRIBUTION:

Deputy Director, Procurement Policy, ASA(RD&A)/SARD-PP
Deputy for Acquisition and Business Management, ASN
(RD&A)/ABM
Deputy Assistant Secretary of the Air Force (Contracting),
SAF/AQ
Director, Advanced Research Projects Agency
Director, Ballistic Missile Defense Organization
Director, Defense Commissary Agency
Director, Defense Finance and Accounting Service
Director, Defense Information Systems Agency
Director, Defense Intelligence Agency
Deputy Director (Procurement), Defense Logistics Agency
Director, Defense Special Weapons Agency
Director, National Imagery and Mapping Agency
Director, National Security Agency
Director, On-Site Inspection Agency/AM
Director, Ballistic Missile Defense Organization
Commander in Chief, Special Operations Command
Director, Defense Evaluation Support Activity
Director, DoD Education Activity
Director, Office of CHAMPUS
President, USUHS
Director, Washington Headquarters Service

THE SECRETARY OF DEFENSE
WASHINGTON, DC 20301-1000

13 JAN 1997

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
DIRECTOR, DEFENSE RESEARCH AND ENGINEERING
ASSISTANT SECRETARIES OF DEFENSE
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
DIRECTOR, OPERATIONAL TEST AND EVALUATION
ASSISTANTS TO THE SECRETARY OF DEFENSE
DIRECTOR, ADMINISTRATION AND MANAGEMENT
DIRECTORS OF THE DEFENSE AGENCIES

SUBJECT: California and Arizona Legislative Initiatives on
Medical Use of Controlled Substances

California and Arizona recently adopted initiatives authorizing Physicians under certain circumstances to recommend or prescribe controlled substances for purported medical purposes. I wish to remind all Active, Reserve, and National Guard personnel that the California and Arizona laws do not change the basic policy or law governing DoD personnel: controlled substances remain proscribed by the Uniform Code of Military Justice. Violators of any of the UCMJ provisions relating to controlled substances remain subject to prosecution or administrative sanctions.

Similarly, the two initiatives do not alter the fact that DoD is a drug-free organization, and current policies governing the Department's civilian employees and its civilian contractors remain in force.

//s//

William J. Perry

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON DC 20301-3000

January 31, 1997

ACQUISITION AND
TECHNOLOGY

DP/CPA

MEMORANDUM FOR DISTRIBUTION

SUBJECT: Employment Reports on Special Disabled Veterans
and Veterans of the Vietnam Era

In order to implement 38 U.S.C. 4212(d), contractors who receive federal contracts greater than \$10,000 are required to comply with FAR 52.222-37, Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era. This FAR clause mandates annual reporting of certain statistics, on a form titled "Federal Contractor Veterans' Employment Report VETS-100," to the Department of Labor.

The FY 1997 DoD Appropriations Act, PL 104-208, section 8118, mandates that all DoD contractors subject to 38 U.S.C. 4212(d) be notified of the potential penalties resulting from failure to comply with this annual reporting requirement (to include contract termination as well as suspension and debarment from future government contracts). Please have your contracting officers communicate to all contractors receiving contracts in excess of \$10,000 the importance of compliance with this contract provision. Questions concerning the content of the VETS-100 report or on whether specific contractors have filed the report should be directed to the VETS-100 Processing Center at 334-242-2028. For further information about veterans' employment emphasis under Federal contracts, you may contact Ms. Eileen Connors at the office of the Assistant Secretary of Labor for Veterans' Employment and Training, 202-219-9110.

//s//

Eleanor R. Spector
Director, Defense Procurement

DISTRIBUTION:

Deputy Director, Procurement Policy, ASA(RD&A)/SARD-PP
Deputy for Acquisition and Business Management, ASN(RD&A)/ABM
Deputy Assistant Secretary of the Air Force (Contracting),
SAF/AQ
Director, Advanced Research Projects Agency
Director, Ballistic Missile Defense Organization
Director, Defense Commissary Agency
Director, Defense Finance and Accounting Service
Director, Defense Information Systems Agency
Director, Defense Intelligence Agency
Deputy Director (Procurement), Defense Logistics Agency
Director, Defense Special Weapons Agency
Director, National Imagery and Mapping Agency
Director, National Security Agency
Director, On-Site Inspection Agency/AM
Commander in Chief, Special Operations Command
Director, Defense Evaluation Support Activity
Director, DoD Education Activity
Director, Office of CHAMPUS
President, USUHS
Director, Washington Headquarters Service

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

ACQUISITION AND
TECHNOLOGY

February 10, 1997

DP/CPF

MEMORANDUM FOR DIRECTORS OF DEFENSE AGENCIES
DEPUTY FOR ACQUISITION AND BUSINESS MANAGEMENT,
ASN(RD&A)/ABM
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING), SAF/AQC
DIRECTOR, PROCUREMENT POLICY, ASA(RD&A)/SARD-PP
DEPUTY DIRECTOR (ACQUISITION), DEFENSE LOGISTICS
AGENCY

SUBJECT: Central Contractor Registration

Central Contractor Registration (CCR) allows Federal Government contractors to provide basic business information, capabilities, and financial information one time to the government. To make registration easier, on October 1, 1996, the Department of Defense (DoD) implemented the capability for contractors to register in the CCR through the World Wide Web. The CCR Web site may be accessed at <http://www.acq.osd.mil/ec>. Registration can also be accomplished via dial up modem at 614-692-6788 (User ID: ccrpub; Password: pub2ccri), or through any DoD Certified Value Added Network. Additionally, a paper form for registration may be obtained from the DoD Electronic Commerce Information Center at 1-800-334-3414. [Note: Companies that do not wish to conduct electronic commerce with the Federal Government at this time can reduce the amount of information they must provide by answering "no" to the question "Are you Electronic Data Interchange capable?"]

DoD would now like to use the CCR to comply with the recently enacted Debt Collection Improvement Act of 1996, which requires Federal agencies to have the Taxpayer Identification Number (TIN) of every contractor and to pay every contractor through electronic funds transfer. Having the necessary contractor information centrally available through the CCR where it can be accessed by both contracting and payment offices will greatly enhance DoD's ability to comply with the law. Additionally, contractors will have to provide this information only once and update it annually and as key company information changes, rather than providing it in response to every solicitation.

Therefore, I am proposing regulations requiring that, for awards resulting from solicitations issued after September 30, 1997, the contractor must be registered in the CCR or the contract cannot be awarded. This requirement will apply to all solicitations and awards, regardless of the media used: paper, oral, fax, electronic, etc. The only exceptions will be for purchases made with the Governmentwide commercial purchase card, contracting officers located outside the U.S., classified contracts, and contracts executed to support contingency or emergency operations.

The purpose of this memorandum is to inform you that changes to the DoD Federal Acquisition Regulation Supplement are in process to implement this requirement. A proposed rule will be issued shortly for public comment. Although the final rule may change somewhat based on the comments received, I believe it would be helpful for contractors to learn of this requirement as soon as possible. The Defense Finance and Accounting Service will include a notice about the new requirement in remittance advice furnished to contractors and on its World Wide Web site. I ask that you take whatever actions you can to inform contractors of the new requirement, such as by attaching a copy of this memo to newly issued solicitations.

//s//

Eleanor R. Spector
Director, Defense Procurement

cc: DSMC, Ft. Belvoir

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

ACQUISITION AND
TECHNOLOGY

MARCH 20, 1997

DP/CPA

MEMORANDUM FOR DEPUTY ASA (PROCUREMENT), SARD-ZP
DEPUTY FOR ACQUISITION AND BUSINESS MANAGEMENT,
ASN(RD&A)/ABM
DEPUTY ASST SECRETARY OF THE AIR FORCE
(CONTRACTING), SAF/AQC
COMMANDER, DEFENSE CONTRACT MANAGEMENT COMMAND
EXECUTIVE DIRECTOR (PROCUREMENT), DEFENSE
LOGISTICS AGENCY

SUBJECT: Performance Evaluation of Contracting Officers

Section 7105(e)(5)(G) of the Federal Acquisition Streamlining Act, codified at 10 U.S.C. 2323(e)(5)(G), requires that one factor to be used in evaluating the performance of a contracting officer be the ability of the contracting officer to increase contract awards to small business concerns owned and controlled by socially and economically disadvantaged individuals, historically black colleges and universities, and minority institutions. The Administrator of the office of Federal Procurement Policy, in a memorandum dated March 13, 1997, asked for a status report on how this provision is being implemented. I have attached a copy of his memorandum. Please provide your comments to Steven Cohen of my office by March 31, 1997. He can be reached by e-mail at scohen@acq.osd.mil, and by fax at 614-1254.

//s//

Eleanor R. Spector
Director of Defense Procurement

Attachment

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OFFICE OF FEDERAL
PROCUREMENT POLICY

March 13, 1997

MEMORANDUM FOR DISTRIBUTION

FROM: Steven Kelman
Administrator

SUBJECT: Performance Evaluations of Contracting Officers

Section 7105(e)(5)(G) of the Federal Acquisition Streamlining Act, codified at 10 U.S.C. 2323(e)(5)(g), requires that one factor to be used in evaluating the performance of a contracting officer is the ability of the contracting officer to increase contract awards to small business concerns owned and controlled by socially and economically disadvantaged individuals, historically Black colleges and universities, and minority institutions. This provision was specifically directed toward the DOD, NASA, and the Coast Guard.

I would appreciate receiving a status report on how your agency has implemented this provision in the performance evaluations of your contracting officers. Please provide your comments to me by March 31, 1997. I appreciate your cooperation and attention to this matter.

DISTRIBUTION:

Mrs. Eleanor Spector
Director of Defense Procurement
OUSD(A), Room 3E144
Department of Defense
Washington, DC 20301-3600

Mr. David J. Litman
Director, Office of Acquisition and
Grant Management
Department of Transportation
Room 9100
400 Seventh Street, SW
Washington, DC 20590

Ms. Deidre Lee
Associate Administrator
For Procurement
NASA Headquarters - Code H
300 E Street, SW - Room 425
Washington, DC 20546

THE SECRETARY OF DEFENSE

WASHINGTON, THE DISTRICT OF COLUMBIA

2 8 FEB 1997

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS

SUBJECT: Compliance With Anti-Discrimination Regulations

The Air Force recently settled charges made by the Office of Boycott Compliance of the Department of Commerce, which charged that the Air Force, an Air Force officer, the Department of Justice, CACI Inc. - Commercial and employees of DoJ and CACI, violated the antiboycott provisions of the Export Administration Regulations. The conduct alleged by the Office of Boycott Compliance -- excluding Jews and Jewish-surnamed personnel from the provision of support services in Saudi Arabia -- is intolerable in this Department and cannot be allowed to occur in the future. I ask each of you to reiterate to everyone in your Departments the importance of strict compliance with anti-discrimination policy and regulations, and in particular the antiboycott regulations.

//S//

WILLIAM S. PERRY

THE WHITE HOUSE

WASHINGTON

March 4, 1997

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: Prohibition on Federal Funding for Cloning of Human Beings

Recent accounts of advances in cloning technology, including the first successful cloning of an adult sheep, raise important questions. They potentially represent enormous scientific breakthroughs that could offer benefits in such areas as medicine and agriculture. But the new technology also raises profound ethical issues, particularly with respect to its possible use to clone humans. That is why last week I asked our National Bioethics Advisory Commission to thoroughly review the legal and ethical issues associated with the use of this technology and report back to me in 90 days.

Federal funds should not be used for cloning of human beings. The current restrictions on the use of Federal funds for research involving human embryos do not fully assure this result. In December 1994, I directed the National Institutes of Health not to fund the creation of human embryos for research purposes. The Congress extended this prohibition in FY 1996 and FY 1997 appropriations bills, barring the Department of Health and Human Services from supporting certain human embryo research. However, these restrictions do not explicitly cover human embryos created for implantation and do not cover all Federal agencies. I want to make it absolutely clear that no Federal funds will be used for human cloning. Therefore, I hereby direct that no Federal funds shall be allocated for cloning of human beings.

//s//

WILLIAM J. CLINTON

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON DC 20301-3000

ACQUISITION AND
TECHNOLOGY

April 10, 1997

DP (DAR)

In reply refer to
DAR Tracking Number 97-O0001

MEMORANDUM FOR DIRECTOR OF DEFENSE AGENCIES
DEPUTY FOR ACQUISITION AND BUSINESS MANAGEMENT,
ASN(RD&-,A)/ABM
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING), SAF/AQC
ASSISTANT DEPUTY ASSISTANT SECRETARY OF THE ARMY
(PROCUREMENT)/DIRECTOR FOR CONTRACTING
DEPUTY DIRECTOR (ACQUISITION), DEFENSE LOGISTICS
AGENCY

SUBJECT: Class Deviation--Value Engineering Change Proposals

I authorize all military departments and defense agencies to deviate from the requirements of Federal Acquisition Regulation (FAR) 48.001, 48.102, 48.104, 48.201, and the clause at 52.248-1, Value Engineering, when providing value engineering incentives to contractors.

FAR 48.001, 48.102, 48.104, and the clause at 52.248-1 provide for a fixed sharing period and fixed sharing and collateral savings rates when using value engineering techniques in contracts. FAR 48.201 requires the use of the clause at 52.248-1 when providing a value engineering incentive.

This class deviation authorizes contracting officers to use the attached revised FAR language when administering value engineering techniques. The revised FAR language changes the sharing period from the current 3 years to a range of 3 to 5 years; the incentive sharing arrangement from the current fixed rate for the contractor of 50 percent to a range of 50 to 75 percent; and the current fixed contractor shared collateral savings rate of 20 percent to a range of 20 to 100 percent. Further, the class deviation allows contracting officers to use the attached revised 52.248-1 clause.

This class deviation is approved for a 2-year period ending March 31, 1999, or until the FAR is revised, whichever occurs first.

//s//

Eleanor R. Spector
Director, Defense Procurement

Attachment

Class Deviation

The following changes are made to the Federal Acquisition Regulation:

PART 48--VALUE ENGINEERING

* * * * *

48.001 Definitions

* * * * *

"Sharing period," as used in this part, means the period beginning with acceptance of the first unit incorporating the VECP and ending at the later of (a) ~~3-Years~~ **[the end of a sharing period of 3-5 years set at the discretion of the contracting officer for each VECP,]** after the first unit affected by the VECP is accepted * * *

SUBPART 48.1--POLICIES AND PROCEDURES

* * * * *

48.102 Polices.

* * * * *

(g) * * * For engineering-development and low-rate-initial production contracts, the future sharing shall be on scheduled deliveries equal in number to the quantity required over the highest ~~36~~ **[designated number of]** consecutive months of planned production, based on planning or production documentation at the time the VECP is accepted. [The number of months shall be established at the discretion of the contracting officer for each VECP. The range that shall be used is 36-60 months. In determining whether to extend the period beyond 36 months, the contracting officer shall consider the following and insert supporting rationale in the contract file:

- (1) Extent of the change;
- (2) Complexity of the change;
- (3) Development risk (e.g., contractor's financial risk);
- (4) Developmental cost;
- (5) Performance and/or reliability impact;
- (6) Production period remaining at time of VECP acceptance; and
- (7) Number of units affected.]

* * * * *

48.104 Sharing Arrangements

48.104-1 Sharing Acquisition Savings.

(a) Supply or service contracts. * * *

	<u>Instant contract rate</u>	<u>Concurrent and future rate</u>
Fixed-price (other than incentive)	50/50 +++	50/50 +++
Incentive (fixed-price or cost)	+	50/50 +++
Cost-reimbursement (other than incentive)++	75/25 ++++	75/25 +++

+ Same sharing arrangement As the contractor's profit or fee adjustment formula.

++ Includes cost-plus-award-fee contracts.

[+++ A rate between 50 and 75 percent set by the contracting officer for each VECP. See 48.102(g)(1)-(5).

[++++ A rate between 25 and 50 percent set by the contracting officer for each VECP. See 48.102(g)(1)-(5).]

* * * * *

48.104-2 Sharing collateral savings.

* * * * *

(b) The contractor's share of collateral savings is ~~20 percent~~ [may range from 20 to 100 percent] of the estimated savings to be realized for each VECP during an average year of use but shall not exceed (1) the contract's firm-fixed-price, target price, target cost, or estimated cost, at the time the VECP is accepted, or (2) \$100,000, whichever is greater. [The contractor's share percentage is determined by the contracting officer for each VECP.]* * *

PART 52 SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.248-1 Value Engineering.

* * * For engineering-development and low-rate-initial-production solicitations and contracts, the contracting officer shall modify subdivision (i)(3)(i) and the first sentence under subparagraph (3) of the definition of acquisition savings by substituting for "the number of future contract units scheduled for delivery during the sharing period," "a number equal to the quantity required over the highest ~~36~~ [designated number of] consecutive months of planned production, based on planning or production documentation at the time the VECP is accepted. [The number of months shall be established at the discretion of the contracting officer for each VECP. A range of 36-60 months shall be used.]

* * * * *

VALUE ENGINEERING (MAR 1989) [(DEVIATION)]

* * * * *

(b) Definitions.

* * * * *

"Sharing period," as used in this clause, means the period beginning with the acceptance of the first unit incorporating the VECP and ending at the later of (1) ~~3-years~~ **[the end of a sharing period of 3-5 years, set at the discretion of the Contracting officer,]** after the first unit affected by the VECP is accepted or (2) the last scheduled delivery date of an item affected by the VECP under this contract's delivery schedule in effect at the time the VECP is accepted. **[The contracting officer's determination of the sharing period is final and shall not be subject to the Disputes clause or otherwise subject to litigation under 41 U.S.C. 601-613.]**

* * * * *

(f) Sharing rates.

	<u>Instant contract rate</u>	<u>Concurrent and future rate</u>
Fixed-price (other than incentive)	50 +++	50 +++
Incentive (fixed-price or cost)	+	50 +++
Cost-reimbursement (other than <u>incentive)++</u>	25 ++++	25 +++

+ Same sharing arrangement As the contractor's profit or fee adjustment formula.

++ Includes cost-plus-award-fee contracts.

[+++ A rate between 50 and 75 percent set by the Contracting Officer for each VECP. This decision is final and shall not be subject to the Disputes clause or otherwise subject to litigation under 41 U.S.C. 601-613.]

++++ A rate between 25 and 50 percent set by the Contracting Officer for each VECP. This decision is final and shall not be subject to the Disputes clause or otherwise subject to litigation under 41 U.S.C. 601-613.]

* * * * *

(j) Collateral savings. If a VECP is accepted, the instant contract amount shall be increased, as specified in subparagraph (h)(5) above,

by ~~20 percent~~ [between 20 and 100 percent, as determined by the
Contracting officer,] of any collateral savings determined to be
realized in an typical year of use * * *
* * * * *